

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

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UNITED STATES OF AMERICA	*	4:19-CR-309-ALM-KPJ
	*	Sherman, Texas
vs.	*	
	*	9:43 a.m. - 9:41 a.m.
MAXINE JULIETTE MITCHELL	*	December 22, 2020

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INITIAL APPEARANCE ON VIOLATION OF PRETRIAL RELEASE
(BY VIDEOCONFERENCE)

BEFORE THE HONORABLE JUDGE CHRISTINE A. NOWAK
UNITED STATES MAGISTRATE JUDGE

* * * * *

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1 **APPEARANCES:**

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6 For the defendant:

7 MR. MARK ARONOWITZ
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11 G. BAKER

12 Courtroom Deputy:

13 KAREN LEE

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9:34 A.M. - DECEMBER 22, 2020

THE COURT: At this time the Court calls its first cause on its morning criminal docket, Cause No. 4:19-cr-309, The United States of America vs. Maxine Juliette Mitchell.

If I can have an appearance on behalf of the Government, please.

MR. GIBSON: Good morning, Your Honor. Tom Gibson here on behalf of the Government, and we're ready.

THE COURT: Thank you.

If I can have an appearance on behalf of
Ms. Mitchell.

DEFENDANT MITCHELL: Okay.

THE COURT: Ms. Mitchell, I'm going to ask for your lawyer, who's muted right now, to unmute himself and state his full name.

MR. ARONOWITZ: I don't -- how do I unmute it?

THE COURT: Oh, now we can hear you. So, Mr. Aronowitz, if you'll just tell us that you're here on behalf of your client.

MR. ARONOWITZ: Yes, Mark Aronowitz,
A-r-o-n-o-w-i-t-z, on behalf of the defendant, Maxine
Juliette Mitchell. We're ready.

1 THE COURT: Thank you.

2 And Ms. Mitchell, if you can just tell me
3 your full name, please.

4 DEFENDANT MITCHELL: Maxine Juliette Mitchell.

5 THE COURT: All right. Now, Ms. Mitchell,
6 we're here today because your Pretrial Services Officer
7 has filed a petition for action on your conditions of
8 pretrial release. That petition was filed on November
9 9th of 2020. Have you received a copy of that petition?

10 DEFENDANT MITCHELL: Yes, I have.

11 THE COURT: So today is what's called an
12 Initial Appearance pursuant to Rule 5 of the Federal
13 Rules of Criminal Procedure. While we're together,
14 we're going to do a couple of different things. I'm
15 going to talk again with you about your constitutional
16 rights, remind you of what those are, and then we're
17 also going to make sure that we advise you of the
18 reasons that your pretrial officer is asking for you to
19 be taken back into custody.

20 For us to talk about those things, I do
21 need to have you sworn. So can I ask you to raise your
22 right hand to the best of your ability.

23 DEPUTY CLERK: You do solemnly swear that the
24 testimony you shall give in the case now in hearing
25 shall be the truth, the whole truth, and nothing but

1 the truth, so help you God?

2 DEFENDANT MITCHELL: I swear.

3 THE COURT: All right. So, Ms. Mitchell,
4 before we press forward, a couple of things. I do want
5 to remind you that you have the right to remain silent.
6 You don't have to say anything at all about the
7 allegations that are pending against you in the
8 petition requesting to revoke your supervised (sic)
9 release, nor anything related to the underlying charges
10 in your criminal case. Anything that you do say could
11 later be used against you.

12 Do you understand you have the right to
13 remain silent, ma'am?

14 DEFENDANT MITCHELL: Yes, ma'am.

15 THE COURT: You also have the right to have
16 your counsel with you throughout these proceedings. Do
17 you both understand that you have the right to counsel
18 and that your lawyer, Mr. Aronowitz, is here with you
19 today?

20 DEFENDANT MITCHELL: Yes, ma'am.

21 THE COURT: One other thing that you and I
22 have to discuss, Ms. Mitchell. I have here in my hands
23 this document entitled Waiver of Rights and Consent to
24 Proceed by Videoconference, and you should have that
25 document before you as well. Have you had an

1 opportunity to review this document and talk with your
2 lawyer about it?

3 DEFENDANT MITCHELL: Yes, ma'am.

4 THE COURT: And so you fully understand that
5 you've got the right to appear in person for this
6 Initial Appearance on the petition requesting to revoke
7 your pretrial release?

8 DEFENDANT MITCHELL: Yes, I do.

9 THE COURT: And in light of the pandemic, you
10 also understand that we're going forward today by video?

11 DEFENDANT MITCHELL: Yes, ma'am.

12 THE COURT: And so is it your sworn statement
13 to me today that you don't object and that you in fact
14 agree to us proceeding today by video?

15 DEFENDANT MITCHELL: Yes, I agree to
16 proceeding.

17 THE COURT: And Mr. Aronowitz, just to
18 confirm, do you request and authorize the Court to
19 electronically affix your signature below your client's
20 on the video waiver form?

21 MR. ARONOWITZ: I so request.

22 THE COURT: Thank you.

23 And Ms. Mitchell, one final question just
24 to confirm. Nobody is forcing you to go forward today
25 by video; is that correct?

1 DEFENDANT MITCHELL: That's correct.

2 THE COURT: All right. So then we will
3 proceed here today by video.

4 Let's turn and talk about this petition
5 now. So Judge Johnson ordered you to be released on
6 certain conditions following your appearance in her
7 court. There has been a petition filed requesting to
8 revoke your pretrial release, alleging that you have
9 violated certain of the conditions that Judge Johnson
10 placed upon you. Do you understand that's why you're
11 here with the Court today?

12 DEFENDANT MITCHELL: Yes, I do.

13 THE COURT: All right. Now, I do need to make
14 sure that you understand the allegations that are
15 pending against you in this petition, and so I'm going
16 to ask the Government to advise you of the alleged
17 conditions violated at this time.

18 MR. GIBSON: Your Honor, the petition alleges,
19 as shown in Docket No. 184, the conditions violated:

20 Number one, the defendant must not violate
21 federal, state, or local law while on release.

22 And condition number 7-M, as in Mary, the
23 defendant must not use or unlawfully possess a narcotic
24 drug or other controlled substances defined in Title 21,
25 United States Code, Section 802, unless prescribed to

1 you by a licensed medical practitioner.

2 Your Honor, that concludes the conditions
3 violated and the allegations are both based on the
4 conduct, I believe, that occurred on or about November
5 7, 2020.

6 THE COURT: Thank you.

7 Ms. Mitchell, do you understand those are
8 the allegations that are pending against you in the
9 petition requesting to revoke your pretrial release?

10 DEFENDANT MITCHELL: Yes.

11 THE COURT: And Ms. Mitchell, before an
12 unfavorable change in your pretrial release can be
13 made, you are entitled to have a hearing. Do you
14 understand that?

15 DEFENDANT MITCHELL: Yes.

16 THE COURT: Now, Mr. Aronowitz, to confirm,
17 you and your client are requesting a full hearing on
18 the petition; is that correct?

19 MR. ARONOWITZ: Yes, Your Honor. The
20 defendant pleads not true to the allegations and
21 requests a Detention Hearing.

22 THE COURT: And so I'll again note, in light
23 of the fact that Judge Johnson is the judge who
24 released you on these conditions, the hearing that
25 you're requesting will be set before her. So what I'm

1 going to do at this time is I'll enter an order setting
2 you for a hearing before Judge Johnson on December 28th
3 of 2020 at 1:30 p.m.

4 Now, I'm going to keep you in custody
5 until this hearing is held. Do you understand that,
6 Ms. Mitchell?

7 DEFENDANT MITCHELL: Yes, I understand.

8 THE COURT: Mr. Gibson, anything further that
9 we should discuss regarding the request to revoke
10 Ms. Mitchell's pretrial release at this time?

11 MR. GIBSON: No, Your Honor. The detention
12 was the only issue and I understand the Court's order,
13 so we have nothing further from the Government.

14 THE COURT: All right. Mr. Aronowitz,
15 anything further from you?

16 MR. ARONOWITZ: Nothing further from the
17 defense, Your Honor. I just want to make sure we're
18 clear, will Ms. Mitchell be live in Plano or not, or is
19 it going to be by video?

20 THE COURT: That will be a determination made
21 by Judge Johnson in light of the fact that she will be
22 the one holding the hearing. We will reach out to her
23 chambers and determine whether or not the hearing will
24 be by a videoconference or in person prior to entering
25 of our order, and the order will include that

1 information.

2 MR. ARONOWITZ: Thank you, Your Honor.

3 THE COURT: Mr. Aronowitz, my courtroom deputy
4 is letting me know that Judge Johnson has just
5 communicated to us. That hearing is going to be in
6 person on December 28th at 1:30 p.m.

7 MR. ARONOWITZ: So we will need -- we are
8 requesting that the defendant be present for the
9 hearing?

10 THE COURT: She will be transported for the
11 hearing.

12 All right. So, Ms. Mitchell, so that you
13 understand what we're talking about, your lawyer was
14 asking whether or not the hearing before Judge Johnson
15 was going to be like this, via video, or whether or not
16 you would be in person. Judge Johnson has notified us
17 that she intends to hold your hearing in person. So
18 you will be transported to the courthouse and appear
19 before Judge Johnson for your hearing. Do you
20 understand?

21 DEFENDANT MITCHELL: Yes.

22 THE COURT: All right. The Court will order
23 Ms. Mitchell to be temporarily detained until such time
24 as this hearing occurs before Judge Johnson.

25 There being nothing further,

1 Mr. Aronowitz, you are excused. Thank you, sir.

2 MR. ARONOWITZ: Thank you, Your Honor.

3 **[9:41 a.m. - Proceedings adjourned]**

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5 C E R T I F I C A T I O N

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7 I certify that the foregoing is a correct
8 transcript of the electronic sound recording of the
9 proceedings in the above-entitled matter.

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12 /s/ Gwen Reed

13 8-23-21

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